

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

BRANDON LANE WALTERS,

Plaintiff,

v.

**Civil Action No. 3:13cv38
(Judge Groh)**

**BRANDY CROCOST, et al.,
Defendants.**

**REPORT AND RECOMMENDATION THAT APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF FEES BE DENIED**

On April 9, 2013, the *pro se* plaintiff, Brandon Walters, filed this complaint pursuant to the Freedom of Information Act. On April 19, 2013, he filed a Motion for Leave to Proceed *in forma pauperis* together with a Prisoner Trust Account Report, ledger sheets, and a consent to collection of fees from trust account.

The ledger sheets and certified copy of his inmate account statement reveal that the plaintiff had an account balance of \$1766.75 as of April 16, 2013. Consequently, the plaintiff had sufficient funds to pay the \$350.00 filing fee. Accordingly, the plaintiff's request to proceed without prepayment of fees (Doc. 6) should be **DENIED**, and the plaintiff should be ordered to pay the full filing fee. The plaintiff should also be warned that the failure to pay the full filing fee within the time allowed by the Court will result in the dismissal of his complaint.

Within fourteen (14) days after being served with a copy of this Recommendation, the plaintiff may file with the Clerk of the Court, written objections identifying the portions of the Recommendation to which objections are made, and the basis for such objections. A copy of such objections should also be submitted to the Honorable Gina M. Groh, United States District Judge. Failure to timely file objections to the Recommendation set forth above will result in waiver of the

right to appeal from a judgment of this Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985) United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk of the Court is directed to mail a copy of this Report and Recommendation to the *pro se* plaintiff by certified mail, return receipt requested, to his last known address as shown on his docket sheet.

DATED: May 1, 2013



DAVID J. JOEL
UNITED STATES MAGISTRATE JUDGE